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 SKILLED HEALTHCARE, LLC*

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

UNITED STATES OF AMERICA, et al.,  
  
 Plaintiffs,

v.

CREEKSIDE HOSPICE II, LLC, et al.,  
  
 Defendants,

AND ALL RELATED ACTIONS.

Case No.: 2:13-cv-00167-APG-PAL

**JOINT STATUS REPORT**

**ORDER**

Plaintiffs United States of America, Joanne Cretney-Tsosie, and Veneta Lepera and  
 Defendants Creekside Hospice II, LLC, Skilled Healthcare Group, Inc., and Skilled Healthcare,  
 LLC (all hereinafter referred to as “Creekside”), submit the foregoing Joint Status Report

1 pursuant to the Court's September 2, 2016 Order (Dkt. #162) and the Court's November 7, 2016  
 2 Order granting the parties' Joint Motion to Stay Action Until January 6, 2017. (Dkt. #173).<sup>1</sup>

### 3 **I. Background and Status of Discovery**

4 This action is brought by the United States and Relators Joanne Cretney-Tsosie and  
 5 Veneta Lepera under the False Claims Act against a hospice provider, Creekside Hospice, and its  
 6 corporate parent, Skilled Healthcare. The gravamen of the action is that Creekside violated the  
 7 False Claims Act by knowingly submitting or causing the submission of false claims to Medicare  
 8 for reimbursement for hospice services for patients who were ineligible for coverage in the time  
 9 period 2010 to 2013. These allegations are disputed and Creekside filed a motion to dismiss the  
 10 action in August 2015. (Dkt. #98).<sup>2</sup> Discovery commenced in June 2015 and is not completed by  
 11 the parties. There is no Scheduling Order in this action. The parties' unresolved discovery  
 12 disputes are set forth in Status Reports that were filed in September 2015. (Dkt. #111-13). A  
 13 temporary stay against depositions of current and former employees was granted by the Court in  
 14 September 2015, and no expert discovery has occurred. (Dkt. #114).

17 Throughout 2016, the United States and Creekside engaged in significant and productive  
 18 discussions pertaining to settlement of the action. The parties filed a Joint Unopposed Motion to  
 19 Stay Action for Ninety Days Pending Settlement Discussions on June 2, 2016 (Dkt. #159). The  
 20 Court granted that Motion on June 15, 2016. (Dkt. #160). On September 1, 2016, the parties filed  
 21 a joint Motion to Continue Stay until November 15, 2016 (Dkt. #161), which the court granted on  
 22 September 2, 2016 (Dkt. #162). On November 7, 2016 the Court extended the stay until January  
 23 6, 2017. (Dkt. #173).

26 <sup>1</sup> Counsel for Relator Lepera approved an earlier draft of this Status Report but did not reply when asked to approve  
 27 this final version.

28 <sup>2</sup> In light of the parties' agreement in principle to settle the dispute, the Court dismissed without prejudice  
 Creekside's Motion to Dismiss as moot. (Dkt. #162).

## II. Settlement Agreement and Other Outstanding Issues

The United States and Creekside have reached an agreement in principle pertaining to settlement of the action. The parties need additional time to obtain the necessary approvals for the proposed settlement, including the approval of the Principal Deputy Assistant Attorney General for the Civil Division and the United States Attorney for the District of Nevada.

In addition, Relator Cretney-Tsosie and Defendants are currently negotiating Relator's statutory attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d). If these negotiations are not successfully concluded by the time this action is dismissed, Relator Cretney-Tsosie will file a motion for attorneys' fees consistent with Local Rule 54-14.

Finally, in the event Relator Cretney-Tsosie and the Government are unable to reach an agreement as to the percentage for her relator's award pursuant to 31 U.S.C. § 3730(d), Relator Cretney-Tsosie will file a motion with the Court to resolve the share issue.

## III. Motion to Continue the Court's November 7, 2016 Order Staying this Action

The parties respectfully request that the Court continue its stay until February 28, 2017 in order to give the parties time to obtain the necessary approvals for the proposed settlement and to execute the agreement and submit dismissal papers to the Court. The parties request that the stay exclude adjudication of Plaintiff/Relator Cretney-Tsosie's Motion to Dismiss the Complaint of Plaintiff/Relator Lepera ("Motion to Dismiss"), ECF No. 166, which is now fully briefed and raises an issue that will not be resolved by the Settlement Agreement. A stay will assure that the Court does not engage in case activity unnecessarily and will reduce the burden and expense of the litigation process for the parties. A Motion to Continue Stay Until February 28, 2017 and proposed order accompanies this Joint Status Report.

1 Dated: January 6, 2017

Respectfully submitted,

2 *Counsel for Defendants Creekside Hospice II,*  
3 *LLC, Creekside Home Care II, LLC, Skilled*  
4 *Healthcare Group, Inc. and Skilled Healthcare,*  
5 *LLC.*

6 /s/ Kathleen McDermott

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**UNITED STATES DISTRICT COURT  
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v.

CREEKSIDE HOSPICE II, LLC, et al.,

Defendants,

AND ALL RELATED ACTIONS.

Case No.: 2:13-cv-00167-APG-PAL

**JOINT MOTION TO CONTINUE STAY  
 UNTIL FEBRUARY 28, 2017**

**ORDER**

Plaintiffs United States of America, Joanne Cretney-Tsosie and Veneta Lepera and Defendants Creekside Hospice II, LLC, Skilled Healthcare Group, Inc., and Skilled Healthcare, LLC (all hereinafter referred to as “Creekside”), jointly move to continue the stay in this action until February 28, 2017, except for the Court’s adjudication of Plaintiff/Relator Cretney-Tsosie’s Motion to Dismiss the Complaint of Plaintiff/Relator Lepera (“Motion to Dismiss”), ECF No.

166, which is fully briefed, based upon an agreement in principle between the United States and Creekside to settle this action, subject to approval of Department of Justice officials. A stay will allow the parties to obtain the necessary approvals, execute the agreement and file the necessary pleadings with the Court to dismiss the action. This stay will prevent additional burden on the Court and unnecessary burden and expense to the parties. All parties to the action consent to the request for a stay.

**WHEREFORE**, Plaintiffs United States of America, et al., and Defendants' Creekside Hospice, et al., move this Honorable Court to:

- A. Grant their Joint Motion to Continue Stay; and
- B. Enter an order staying this case in its entirety until February 28, 2017.

Dated: January 6, 2017

Respectfully submitted,

*Counsel for Defendants Creekside Hospice II, LLC, Creekside Home Care II, LLC, Skilled Healthcare Group, Inc. and Skilled Healthcare, LLC.*

/s/ Kathleen McDermott

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**IT IS SO ORDERED.**

Dated: January 6, 2017.

  
UNITED STATES DISTRICT JUDGE

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IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE  
UNITED STATES MAGISTRATE JUDGE

DATED: \_\_\_\_\_